فقه

# المقاصد الشريعة للعقوبات في الإسلام

يحيى مراد

# المقاصد الشرعية للعقوبات في الإسلام

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**ÅǪä+ şŰ**

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åÆǵ ĊǵÅǫdb+ ş ĊĊĨ äĊǵÅǫdb+ ÆǵɃäÅĘŉ Åä dĊŅĿŸ ŌäèŽ
Æǵ ŰÆĔĘŸ ŗèąä ÆĔäĞĞŰɃĊğ Ű äŐ äÅǫĊŅɃŐĊǵ ğ ÅĐŽä
.öÅĐŽä ɁŸ öĔÅǵŖ ĦĶ ŋÅş ƙ ĦĿĊĨ äşäÅä
ŻŸǪ åŢäÆǵ ÅǪää ÅǵʝÅş åŢäÆǵ ÅĂŢ ÅǪä ʝÅö ĊĞÆğ
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ĿŢöÅş ! äĿŢöÆğŢĊŉ ɂ ŽǵŰ ÅőèĊŉ ! äǵǿö ɂŸ .dǿö ɂŸ ʝ ĔǫÅ! äĘŸŻ
ĊŐ ɂŸş öÅĔäKŰ ɂŸş ĂĦĞäŐ Ƨ ɂŸ äŰĔĶş ÅζĦŖŢ ô ǵ äζÅş äÅǵŰ äÅǫŰ
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.äǵäş äĔD ŹÅǫÖş dÅåĔÖŎş ǿŰĊĔĐÅŐ ÅŅŐŐ: dĊǫÅè db čď åÆǵŽş
ƙ ŸÅĊåĐŻ ζĔÅäö ɂĔǵ ǿĐŐĐŻ ǾĔÅş Ď åǵ ČĔ dÅö ŰĞŉĊŰŽ åǿş
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ĀǠ[illegible] ǼǼ[illegible] Ǒ̧Ǣ̧Ą̀ʒ ǴŷǹȠ ďǳǿĂ̄ĕş Ā̀Ǒǣ̀Ÿ Ü[illegible] ! ȁȯčȅǿ
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**Ą̀ʔ ȁȁ Ā̀ ďǳ:ȯĄ̧** ƑĀ̄ǯ Ǖ ǺĒĀ[illegible] ďǯ ǻşȁ Ÿ Üďǯş
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ǽǔ[illegible] Ą̀ʔ ȁĂ̄ǵĀ̀ ŕ Ü[illegible] ĄĒǮğ[illegible] ĄĒǵÜʔŶ ǯ Ǩ Ā̄Ǒ
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ĘŶǯ ŕ :Ǘ[illegible] Ǒ̄Ą̄ǳ ďǯ ĄĒĪ ÜƤşǿ Ÿŕ ŷ[illegible] ǽÜ ǻ Ā̄R/Ǒ̄Ŀ
Ǩď ďǳ ĄĒ ȁʔŶ ǵĂ̊ş Ǒ̇[illegible] ĴĴ ȣ Ǿ[illegible] ş Ą̀ʔ ȁŽ ǵ[illegible] ş Ǒ̄ĐǿŽ
ƑĀ̄ǯĴ ş Ǒ̇[illegible] Ǒ̄[illegible] Ǩďŕş ǿǢ Ęğ ŷ[illegible] Ǒ̄[illegible] ĐŽ
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.foucault: surveiller et punir nassance de la prison la prison
.paris gal imard [illegible] p [illegible] et s

(2) [illegible]: supplice de la rowe .

(3) JA. Soultages: traite des crimes [illegible] t.J.p [illegible] cite par m.
fouit foucault: ibid .p [illegible] rgarraud: precis de droit criminel
.paris [illegible] 'ed [illegible] .p [illegible]

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beccaria: traite des delits et peines peimes trad fr. Paris fr. [illegible]
.Paris cujas [illegible] chapitre iii p. [illegible]
.Beccaria: ibid chap vi p. [illegible]

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**La peine est sfflictive et infamante**

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Mesures de sureté

# الفصل الثاني

## أنواع العقوبات

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**ЛĔăĐşŽ**

ȡȝ â ЛĂǠăȡĂ, ăăЛĕğ ă ąǦăʔţ,ÊΛǿĂş ÛǮĂşăȡȝ ǵǿĂǤ ǦăЛăŽ ЛĔă
Ž ȡɓ,ȜĂ ǿĭǭăăЛĔğ J ĂĎĔăǦăʔţ,ÊĂş .ǿĂ,ȡĂĄ,ĂĂǾ ȡȝ ǾĂǤ :ȯĂǾş .ȯƺŇЛĔă
.[Ǭ] ĂǾĂǦĞă ĂǾǨăȡɓ,ǦĂЛĂǢǾȯăşЛĔğ ğ ĂǢĕĐŸĊК ĬȽş .ǯşĂ ăȡȝ ȡĎĔă
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.[Ď] ăЛĕğ ʔţ,ÊΛî ĂǾǦăJ ÛĂǰǿăŘ ĦĕăȯĂş
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ǵǿĔ ĂĂĕǢĕĐăǾ Ύȯǵ,ğ ǿǵÔǾǿǭǰ ÛǿĂĂş ÔǿăЛĔĂ Λȡɓ,ȜĂş ÛĂǾǾ,ȡǾΛ
.ǵĂ ĂĔăȡɓ,ÔǿăЛĂǯ,ǦĂĂăÔΎĂ Ăĕ
Ž Ƙ ǿĂЛĔ ăş ĂĂĂŽ ǦĂЛĔ ăşÛǦĔăŽ ЛĔăȜÛȩ:[d] ǦĔŘ ăşЛĔăş
ȓ Ă ăă ăĂ ĿÛȡɓ,ĂĔăŽ Ƙ ǿĂЛĔ ăş ĂĔΛƁǵăş ƘĦţ,ă ăĂ ȡɓ,ă Ă ă
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**:ẤẤǨǬŽ ą ẤŔăǑŏ**

Ɓ ř ẓÊăẽǜẓ ɍ ş ÁĖẤŏ ǳẦǭ ğ ẤĔŏ ƁǾăř ẓÊǼặẹ ẤǬ Ĥặẹ ẓǾ Ʌ Ǘăẓ ą Ấ ş Ǘǻ ŏẤĔẐẤǨǬĘǷǺ Ǘăẓ ɍ ş ǗǬğ ẓŘ ȝ Ǿŏ ʔǗẤş .ǳẦǭ ẤĔǾķ ǳ, ȝ ẓɲʔ Ÿȝ ȝɫẓ Ǘăẓ ɍ ş .ǾẤǬặř Ǘǳŏ Ấặŏ Ž ąẤẤ Ǘ ẤĔẓ ÁĖă .ÁĖẤŏ Ǒăẽ Ž ẤẤǨǬş ǗÊɾ ă

ǳ,ÁĔǗẸẓ ą ẤŔặ Ǘ ǗǾŘȝ ą ʔ Ÿȝ ą ẤŔăą ẤẤɍ :ẤẤǨǬŽ ǾĘş Ẓ ǒẓăǬǴ ǳ,Ẓ ẤČ ŸẒ ǗẤĔǬǴ ǳẸẓ ʔ ẤĎ Ẓ ĘẤǬ ɟ ǗÁĖă ą Ấ

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:ǾĘ ẤĘẓ Ǒ ȝǗẤǗ ǽŏ ÁĔǬ Ǫ ÁĖ ăÁĔ ş ẒĎ ẓǻ Ê ẓĐẓ ẓ ą ǽǬă
."ř ăẽ Ǘ ǖ Ấ ȝ ʔ Ÿȝ ăẤẤɍ"

ÁĔ ǗǑ ş ǒẓẹ Ž ɉ ẤĔ ǭ ŸɅǗẸ ẤǬ ǾǾẓ Ǒ ǗǴ ẤẤ Ǿ ȕ Ě ĘĮ
ǳĮ ÿŕĔ ăǒ Ấş ǾĎ ǾĎ ǽ ẤẤ Ę ǗǾǗ Ÿǳ ş ǽÁĘş ǽȚ ẓăĎ ǽ Ʌ
ǳẤǾ Ǒ ǽ ǘ ﷺ ƑẤŏ ẤĎ ẓ Ấŏ ǗǾĤǾ ĳẓ Ǒ ặ Ấŏ ăĕă ẓǾǴ
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ô ẢǯǓẢǼ .[٢]((ǒđ ǑẢǬǒ Ȅ ǒ)) :ﷺ ǿẑẢǡ ǿẑ ǑǡǽŽ Ǒǒǂ ą

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.ČĕĔ/ǯǨąẑẢǬǿǦǬ ǬẢǼą(č)

.čĎĔî Ē ǿẢẢǼąǬ(Ď)

## Ọ̈ǟǟ̄ǟǾ̈ǬǑ Hǚǟ

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# الفصل الثالث

## مقاصد العقوبة
## بين التشريع الإسلامي و القانون الوضعي

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ĘΣÜÂÆŸõ ĞÄŽ ŝåĞĎŽŏ Ž ĴÅŸÆÉā ÄÜ ăÅŸÔĎŽ
ŗ ÅŽĘdą dĎnĞÄŽ ă ĀĴ ŭĞÅ ădÅŢ ĿŢ ŮdŃāĹ .ÁÅÅŏ
dŽ ĘŸAŗ ÛäŽdŽ ÆÊÅŗ ÅŽĞŘ/ŗ ÅĴ ŭÛĞĎÐòĞĎŽ
ÆāŽ ÆĽŬÛŃ nĞÅĹÃ ?āĴÜŘ Ţ ĴäÆĘ ÄŽĘ ÛĶdŃĎŽÜ
ê ÅŏåÊ ĞĘţĘ ÁÅŏdŃÅÂāÖ ŸÁŭĞĎŽÅĴ ÛĞĘ øòĎŽ
ŦÅpÛŽĘ ÊÛ ÅŢ ŽŢ ÛĶdĹ ÜŏÅŽĘ ă ÕqÆ .ĆĶdÆĘ ŏÆÜ
dĊŗ ÛĴŽŦ ăĘ ā ĆĊāÂĘ ĞĘţ dŃĆŏ ÜŏÆĀÅÊ ĘÅ
ĿŸĊ ĞÖŃĶdÄŽ ĴŝÅ ĆĘ ÛdÅŗ Ŧ ŝÛĘÃŽ ÅÅp Ÿ ĞÅĞÅÜ
?Ÿ ÅÅŝ ĞÅŸÂÊÅp Ÿ ĆĄÊÅ ÅÕŝ ŲÅ äŞŸÅÂÒ?ĆèĘĞ
ĴÜÆÆĘŮdĊŗ āÅ ŢÆdÅÂÑÊĀŽ ÛķāÅ ÅĀĴÜÆŘ ŏÅÆÊÅp
.⁽ᶜ⁾ ((ÅÆŽ ÅŢÆÕÂŃÒğ dĒğÜŽŢ.ÆÅĴ ŏŽÂÖ/

:ĞÆàĞÂĎŽ

ĞÅŝ ădŃŮĞĦÑŢ Ķŗ ÅŽÅÄŞ ÛĞÆÊ ĞĘ àŏÊāÆ3ÛĘĴÜ
.ÄĞÅüŞ

ŲāŸĞŽ dĄ ä ÅĞâŽ ÕŘÅāĞĒÕĆĆŢ ĴÅ ŽĘĔ Ě ţŸdąŲ
ğ āÅ ȝ ÆÕÅÄÅŞ Ž î ŽÕŸŘ ĦĘÜŸ āÆÉĎĦŏÕĆnŨĴ ĕāÅ ÕnŪ

.ƙĦĘţŸ3ŮĆ ÒĎŽĆ î ÅŢq.ƁŽŸÆĞĞÆ āĞĎĆ ÒĎŽdĈ î ÅŢq(ᶜ)

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## خاتمة البحث

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